

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MARIA ANGUIANO,  
Plaintiff,

v.

MANN PACKING CO., INC.,  
Defendant.

Case No.19-cv-02133-VKD

**ORDER RE DEFENDANT'S MOTION  
TO DISMISS AND PLAINTIFF'S  
MOTION TO REMAND**

Re: Dkt. Nos. 14, 17

Defendant Mann Packing Co., Inc. ("Mann Packing") removed this action to federal court on April 19, 2019. Dkt. No. 1. On May 6, 2019, Mann Packing moved to dismiss the complaint. Dkt. No. 14. On May 17, 2019, plaintiff Maria Anguiano moved to remand the action to state court. Dkt. No. 17. On May 20, 2019, Ms. Anguiano filed a first amended complaint as a matter of course pursuant to Federal Rule of Civil Procedure 15(a)(1)(B). Dkt. No. 19.

A plaintiff may amend its pleading once as a matter of course within 21 days of service of a motion under Rule 12(b). Fed. R. Civ. P. 15(a).<sup>1</sup> An amended pleading generally supersedes an original pleading. *Hal Roach Studios, Inc. v. Richard Feiner and Co., Inc.*, 896 F.3d 1542, 1546 (9th Cir. 1989).

Accordingly, the Court denies Mann Packing's motion to dismiss as moot, and VACATES the hearing scheduled for June 25, 2019. Mann Packing's deadline to respond to the first amended complaint is June 10, 2019. Fed. R. Civ. P. 12(a)(1)(A), (b). The parties shall advise the Court by **May 28, 2019** of their respective views on whether the first amended complaint impacts Ms. Anguiano's pending motion to remand.

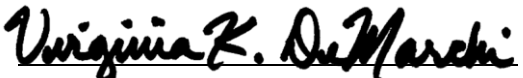
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<sup>1</sup> A Rule 12 motion is not a "responsive pleading." See *CRST Van Expedited, Inc. v. Werner Enters., Inc.*, 479 F.3d 1099, 1104 n.3 (9th Cir. 2007).

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**IT IS SO ORDERED.**

Dated: May 21, 2019

  
VIRGINIA K. DEMARCHI  
United States Magistrate Judge